

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:07-CR-00297-1-F  
No. 5:11-CV-00623-F

WILLIE JAMES BEAN,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

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ORDER

Having conducted an examination of petitioner's motions [DE-68 & -72], and it appearing that dismissal is not warranted at this time, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing § 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 Motion to Vacate, Set Aside or Correct Sentence, within **forty (40)** days of the filing of this order.

Additionally, because it appears that petitioner challenges his conviction based on the recent decision of United States v. Simmons, 649 F.3d 237 (4<sup>th</sup> Cir. 2011), pursuant to Standing Order No.11-SO-3 (E.D.N.C. Oct. 18, 2011), the Office of the Federal Public Defender is appointed to represent petitioner in connection with these proceedings.<sup>1</sup> The Clerk is DIRECTED to serve the Office of the Federal Public Defender with a copy of this order.

SO ORDERED.

This, the 3rd day of November, 2011.

  
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JAMES C. FOX  
Senior United States District Judge

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<sup>1</sup> The court notes that the petitioner also has a pending Motion to Appoint Counsel concerning his Motion for Reduction of Sentence – Crack Cocaine Offense 18 to 1 [DE-66].